

**To:** Grant, Brian[Grant.Brian@epa.gov]; Kaczmarek, Chris[Kaczmarek.Chris@epa.gov]  
**Cc:** Berol, David[Berol.David@epa.gov]  
**From:** Mclean, Kevin  
**Sent:** Tue 1/14/2014 2:25:52 PM  
**Subject:** FW: FYI from Inside EPA - Spill Prompts Calls For Stricter Chemical Laws

**From:** Averback, Jonathan  
**Sent:** Tuesday, January 14, 2014 9:12 AM  
**To:** Mclean, Kevin; Lynch, Mary-Kay; Schmidt, Lorie  
**Cc:** Corman, Bicky; Swenson, Erik; Doster, Brian  
**Subject:** FW: FYI from Inside EPA - Spill Prompts Calls For Stricter Chemical Laws

There's a few interesting points in the forwarded article.

# Ex. 5 - Attorney-Client

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**From:** Matthiessen, Craig  
**Sent:** Tuesday, January 14, 2014 7:41 AM  
**To:** Averback, Jonathan; Bosecker, Elizabeth; Belke, Jim; Franklin, Kathy; Jacob, Sicy  
**Cc:** Jennings, Kim  
**Subject:** FYI from Inside EPA - Spill Prompts Calls For Stricter Chemical Laws

Check out the last sentence of this report.

FYI from Inside EPA Report:

## **Spill Prompts Calls For Stricter Chemical Laws**

**Posted: January 13, 2014**

Democratic lawmakers, environmentalists and labor officials are calling for policymakers to strengthen the Toxic Substances Control Act (TSCA) and other chemical regimes in the wake of last week's spill in West Virginia, which contaminated potable water in the state capitol and revived concerns that little is known about many chemicals while many facilities are not adequately regulated.

The spill released tens of thousands of gallons of 4-methylcyclohexane methanol (MCHM), used by Freedom Industries to process coal, into the Elk River, upstream from the local water utilities' intake. While regulators barred residents from using the public water supply, they struggled to address residents' concerns about the substances' risk as they had no access to safety data because the only toxicity study was one conducted by the chemical's manufacturer and was proprietary.

According to [press reports](#), the facility was largely unregulated because it was considered a low risk.

Reps. Henry Waxman (D-CA) and Paul Tonko (D-NY), top Democrats on the House Energy & Commerce Committee, wrote a [Jan. 13 letter](#) to Rep. John Shimkus (R-IL), chairman of the committee's environment and the economy subcommittee, urging him to hold a hearing to examine how TSCA can be reformed to prevent similar problems in the future.

"Simply, why don't we know more about the potential health effects of exposure to this chemical? As we begin to consider ideas to reform TSCA it is critically important that we understand how the law allowed a potentially harmful chemical to remain virtually untested for nearly forty years," the Democrats wrote in the letter.

The lawmakers said that only one health study of MCHM has been conducted. It dates back to 1990 and is proprietary because it was conducted by the chemical's manufacturer.

According to Richard Denison, a senior scientist at the Environmental Defense Fund, the study suggested an acute oral toxicity safety limit of 825 milligrams per kilogram of body weight as the dose of MCHM that killed 50 percent of exposed rats within a short period of time.

The study did not test for reactions to the chemical besides mortality. Denison said the study is the sole basis for the 1 part per million level that the government has apparently set for the chemical's safe consumption in humans.

In a Jan. 12 blog post, Denison echoed Waxman's concern over the inadequacy of TSCA, noting that "If the protracted debate over reform of TSCA sometimes seems esoteric or abstract, the epic failure of this law could not be better illustrated than by what's unfolding in Charleston, WV this week."

Denison says that the largest failure of the TSCA is that it did not mandate anyone involved to know the true effects of the chemical, despite its continued use for decades, "What is particularly maddening and outrageous is that no one... can say anything even close to definitive about what risk the chemical poses to people, even in the short-term, let alone over time. And that's where the failures of TSCA come into sharp focus."

Meanwhile, the National Council for Occupational Safety and Health, a group that focuses on workplace safety issues, says the latest spill is similar to the fatal chemical explosion at the West, TX, fertilizer plant last year, due in part to inadequate safety regulation.

The group called on Congress to strengthen provisions of the 1986 Superfund reauthorization law to ensure that facilities like those in Texas and West Virginia comply with provisions requiring companies to report information about the types and amounts of chemicals stored at a given facility.

The group called on the administration to quickly complete its work developing recommendations to address such facilities under the executive order President Obama issued following the explosion.

"The agencies should quickly complete their review of existing safeguards. They also should assess what steps need to be taken to ensure that hazardous chemical storage and production facilities are adequately covered by state and federal enforcement powers to make chemical facilities and their surrounding communities safer," the group said in a statement.

The group also called on policymakers to give the U.S. Chemical Safety Board, the federal entity that investigates industrial releases, enforcement power to ensure its recommendations are adopted.